

**Probation Services Task Force
January 11-12, 2001
Double Tree Hotel
835 Airport Boulevard
Burlingame, California 94010**

January 11, 2001

Committee members present: Hon. Patricia Bamattre-Manoukian, Hon. Denny Bungarz, Mr. Alan Crogan, Mr. Bill Davidson, Ms. Sheila Gonzalez, Mr. Michael Johnson, Mr. Phil Kader, Hon. Bill Lebov, Hon. Barbara McIver, Hon. Mike Nevin, Mr. John P. Rhoads, and Mr. Michael Roddy.

Committee members not present: Hon. Terry Friedman, Mr. Bryce Johnson, Mr. Bill Mahoney, Hon. Kevin M. McCarthy, Mr. Ralph Miller, and Hon. Frank Ochoa.

AOC Staff Present: Ms. Audrey Evje, Mr. Peter Kiefer, Ms. Diane Nunn, Mr. Ronald Overholt, Mr. Alex Ponce de Leon, Mr. Joshua Weinstein, Mr. Jonathan Wolin.

Guests and consultants: Ms. Elizabeth Howard, Mr. Rubin Lopez, Mr. Steve Love, and Mr. Alan Schuman.

Mr. Steve Love introduced himself to the Task Force, explaining his experience in the areas of probation and court administration. Other introductions followed, with all present introducing themselves.

Probation Overview (presented by Phil Kader)

Probation has three broad areas of responsibility:

- Custody
- Supervising services
- Intake and Investigations

Custody

Probation is responsible for all local (county) juvenile detention facilities and, in several counties, for adult custody for electronic monitoring, work release and similar programs. Juvenile detention facilities include Juvenile Hall, County ranches and boot camps, and Day Reporting Centers. To a limited extent, some counties have work release facilities.

Intake

All Juvenile filings other than juveniles filed directly into adult court pursuant to Prop 21 go through probation first. Although much of the discretion in juvenile intake filing is being transferred from probation to the district attorney, intake is a valuable function of probation and probation still has an important role. Significant decisions are made at the point of intake, including services, custody, and alternative options. Additionally, at the intake level, probation is responsible for:

- Traffic for juvenile
- Step parent adoptions and other juvenile civil matters

Investigation

Probation is responsible for the following types of investigation:

- Presentence investigation – statutorily mandated, but intensity of reports vary significantly Investigation is mandated in many cases but takes a lot of staff resources.
- Fitness reports for juvenile cases, the demand for which has increased in some instances because of Prop 21 (despite the fact that many of these cases could have been filed directly in adult court)

The Prop 21 impact in this area, and others, is difficult to assess at this time. It may be several years before the full

Supervision Services

Most supervision is field supervision. Observations regarding supervision include:

- Specialized post-sentencing caseloads have developed over the recent years (DV, drug court, juvenile specialized caseloads)
- Supervision poses the greatest risk to line staff and arming is an issue here
- A lot of these services are at risk because of unstable funding bases (grants), including programs supported by AB 1913, which provides \$121 million statewide through 2002
- More service options are available to larger counties because they can leverage additional services; grant funding, often based on per-capita distribution, exacerbates resource inequities
- Level of supervision not statutorily mandated

Philosophy/History

Mr. Kader also gave background on the philosophy and history of probation. Probation originally functioned in a social services capacity and handled dependency

as well as delinquency matters without significant court intervention. That has changed and there is more due process and court involvement. Other trends include:

- Blended funding approach is on the increase – teaming with other public or private agencies to provide services and leverage resources.
- Probation philosophy is, in some instances, becoming more law enforcement oriented rather than social work focused based on hiring practices (more POs with criminal justice degrees than social work degrees are entering the field)
- Changes in Chief Probation Officer or court presiding judge may change the philosophy focus and direction of probationary department.
- The court makes decisions – i.e., on placement options – that have a direct fiscal impact on the county.
- The Board of Supervisors also has an impact on philosophies through their funding decisions.

Task Force Outreach Efforts (presented by Ms. Audrey Evje)

- Beyond the Bench outreach discussed
- Future outreach CPDA, Delinquency Conf., CJAC, DV Conf., CDAA, CPOC
- Every member is asked to attend/present at least one outreach presentation
- Ms. Evje gives an overview outreach efforts presentations:
 1. Explanation of Task Force charge
 2. Task Force membership and structure
 3. Task Force purpose
 4. Comments from attendees

Services Subcommittee Update

- Survey Efforts
- Outreach
- Capacity for Evaluation
- Best practices
- Vision for probation (where probation should going)
- Deputy Probation Officer Issues
- Education

Capacity for Evaluation (presented by Mr. Denny Bungarz for Bill Mahoney)

Mission Statement with Goals and Objectives

- Orange County Probation Plan binder was distributed as a model for equipping counties with a greater capacity for evaluation . Use of evaluation and performance plans should be necessary to measure which of these goals are met.
- Smaller counties do not have the same scope of resources to develop as sophisticated performance plans and articulated visions, but the principles embodied in the model plan can be applied anywhere.
- Need to set standards in order to evaluate.
- Need to identify key elements that can be applies across the state not recommend a particular model.
- Needs to be a living document examined and reviewed periodically.

Technology

- Technology is also a key tool to be used in evaluation process.
- Statewide technology/data gathering standards should be used to exchange information from county to county, as well as within the county from court to Probation to DA and other key stakeholders.
- Consensus centered on need to develop statewide standards for data collection, followed by focus on connectivity.

Best Practices (presented by Mr. Phil Kader)

- Focus is on characteristics of successful/effective programs rather than cataloging best programs, etc. Preliminarily we see two common components:
 1. Collaboration
 2. Community involvement

Visions for Probation – Draft Report (presented by Ms. Sheila Gonzalez)

- Focus on rehabilitation of offender
- Emphasis on social work not law enforcement
- Probation functions as facilitator, conduit, and coordinator of community and government resources
- Sufficient resources required to give probation the ability to give individualized recommendations to court, so that the court has options for realistic rehabilitation of offender
- Manageable caseloads
- Raise probation to equal partnership status with other players in the criminal justice system

This will be worked through in subcommittee for a more balanced, more complete vision. It was acknowledged that this is a draft/work in progress.

Observations included:

- Probation role has changed to more adversarial and thus the social work goal may not fully reflect current role.
- To raise status of probation officer, best approach is not to try to be a cop but to highlight uniqueness of services provided by probation
- National trend is seeing move toward rehabilitation, and away from law enforcement focus.
- Must recognize probation officer's two hats:
 1. Social worker/rehab
 2. Peace officer

Probation must be comfortable fulfilling responsibilities of both roles.

- Public safety retirement is a huge issue and may be a motivation factor for line staff seeking greater affiliation with law enforcement aspects of probation

Employee Issues (presented by Ms. Audrey Evje for Ralph Miller)

Issue to be studied:

- Equal status of probation officers
- Hiring requirements
- Arming

Education (Ms. Audrey Evje reports for Hon. Juan Arambula)

Issues to be studied, with assistance of outside resources:

- Learning disabilities
- Special education
- Schools as partners

Proposition 36 Work Group

Overview of Proposition 36 by José Guillén

A brief overview of the provisions of Proposition 36 was provided, along with a review of the numerous issues that the Judicial Council's Workgroup on Proposition 36 Implementation will address:

- Preliminary post-plea drug court model
- Licensing and treatment requirements

- Sentencing and probation requirements
- Probation violations and parole
- Funding

Membership of the Proposition 36 Working Group is very broad based – it includes representatives from various stakeholder interests: court, county, probation, treatment, legislative, and executive.

Charge of the work group:

- Develop models to allow trial courts to design adequate services
- Propose recommendations on legal, policy and operational issues
- Recommend standards to ensure the quality treatment providers
- Estimate Proposition 36 client base
- Analyze fiscal effects and costs to court/treatment system
- Recommend policy and legislative initiatives to clarify implementation
- Serve as clearing house for ideas, questions, and comments.

Relationship Subcommittee Report (presented by Hon. Barbara McIver)

Supervisor McIver explains that the relationship subcommittee has met by conference call and will present several models at the meetings today and tomorrow. From those presentations, the focus will be narrowed to the proposals or models that should be developed further. The following models were presented:

Local or State Commission (presented by Mr. Mike Roddy)

- Could not find an example of a state commission that appoints CPOs
- Modeled after commissions or other boards
- All models assume that entity with appointing authority also has fiscal responsibility
- Local members include (1) Board of Supervisors, (2) Local court, (3) combination of those two
- State Members (1) Executive, (2) Judicial, (3) Legislative
- Options
 - Option 1– commission appoints or recommends candidate(s) but does not evaluate
 - Option 2 – commission appoint CPO and evaluate/reward duties
 - Option 3 – total oversight of probation
- Within commission model, roles vary significantly. A lot of police commissions in the eastern areas.
- Commissions usually provided for by statute
- Generally, commissions report to or work for the funding entity.

- 2-3 year staggered terms typically.

State Executive (presented by Mr. Alan Crogan)

Under control of Youth and Adult Correction Agency, CPO could be appointed at state level or regionally, combining parole, CYA, Local Probation and then CDC and incarceration at CYA as CDC.

Benefits

- Statewide system/uniform policies/parolee
- Stable, uniform funding
- Uniform training and expectations
- Personnel –equitable salary/benefits recruitment and retention promotional opportunity
- Caseload standards that are based on balanced delivery of services
- Uniform initiative implementation (3KS, Prop 21, 36, etc.)
- IS unified
- Better collaboration with governor, Trial courts, DOC, AG, legislature, DGS, JC, Dept. of Health & Human Services
- Stable state funding

Local Executive (presented by Mr. Michael Johnson)

- The authority to appoint, remove, and evaluate the Chief Probation Officer is best vested with the Board of Supervisors.
- Every Probation employee is a county employee and the county is responsible for probation.
- County holds fiscal and legal responsibility for the probation department, thus should be responsible for appointment of department head.
- Funding is from county.

The main advantage of this program is that the entity responsible for the agency has the power to control the direction and administration of the agency.

Question: How would probation ensure it was funded to fulfill court orders?

Answer: Same as with other departments such as Public Defender, Mental Health Department, etc. ?? – county reviews budget but not decide what services must be given.

State Judicial (presented by Mr. Steve Love)

- Appoint CPO at state level by Chief Justice and then a state system through AOC or AOC director appointing.

- Chief Justice could make various boards consisting of members from
 1. Statewide lay persons
 2. Local judges
- Supervision of detention facilities does not lend itself to state judicial model.
- Many issues would arise if CPO transfers to state level.
- State would be responsible for funding but may incorporate some AB 233 funding model.
- Uniform or minimum standards of services would be made statewide

Local Judicial (presented by Hon. William Lebov)

Issues:

- Should local judges be making decisions alone?
- What judicial? PJ, Juvenile PJ, majority of judges, super majority
- Consultation with county executives, BOS, Juvenile Justice Commission?
- Evaluation and removal protocols should be vested in the appointing authority
- Judicial model should recognize that assumption of appointment authority requires some assumption of fiscal responsibility

Model would look like this:

- CPO selected by majority of judges consultation with county executives, BOS permissible
- Removal for cause only
- Formal periodic evaluations by supervising criminal judge Juvenile PJ
- Discipline by PJ after consultation with other judges
- Termination by majority vote of court
- Funding arguably should be in the judiciary and maybe on a trial of funding model
- Maybe court fund only CPO

Question: Is there a separation of powers issue to have detention funding in the judicial branch?

Elected (presented by Hon. Barbara McIver for Mr. Bryce Johnson)

- Elected CPO could aggressively pursue funding without fear of reprimand
- Elected CPO would be more responsive to line deputy and, for instance, run the POs
- Elected CPO would be in front and able to educate public on role of probation
- Elected CPO would be responsive to public and more independent

Combination (State) (presented by Mr. William Davidson)

Assumptions:

- State pays for probation services or state pays for baseline and county may fund more or
- State pays salary/benefits of personnel and county pays for operations
- All probation come under authority of state

Commissioner would establish

- Policy/procedures
- Rules of supervision/caseloads, placement
- Standard levels
- Minimum qualifications

Selection

- Candidates screened by executive branch of government
- Most qualified candidates interviewed and selected by AOC
- Final selection made by state Supreme Court

Operational Issues

- Commissioner works out of the AOC or the Youth and Adult Corrections Agency, depending on where the focus of collaboration is placed
- Commissioner would hire Chief Deputy Commissioners for major areas of operation (Human Resources, Field Supervision, Institutions, Fiscal Resources, etc.);
- Deputy commissioners oversee regional areas in state, perhaps broken down along six appellate court districts

Pros

- Stable funding
- Equitable distribution of funding
- Consistent process/procedures
- Statewide application of standards
- Insulation from political whim

Cons

- Less sensitivity to local issues
- Bureaucracy – limited ability to respond in a timely fashion
- Less collaborative at local level
- Limits ability to build local relationships and collaboration

Mr. Alan Schuman then presented the results of the stakeholder survey parts IV and V as it relates to the appointment, evaluation, and removal of the CPO as written in his report. Please see that report for the substance of his presentation.

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January 12, 2001

Committee members present: Same as January 11, 2000, with the addition of Hon. Terry Friedman, and Mr. Ralph Miller

Mr. Al Schuman presents his overview of Parts I, II & III of the survey. He has reviewed about half the surveys, and is not able to discern any clear trends at this time. This presentation is based upon preliminary notes, but he will give a full survey analysis at the next meeting. The observations include:

- Juvenile Hall overcrowding is apparent from the surveys and there was discussion about alternatives to detention of low risk juvenile offenders.
- Department of Justice gathers probation numbers from county probation departments but several counties do not have adequate technology to get aggregate caseload numbers. This is shown by incomplete caseload answers in the surveys.
- It is apparent from the preliminary survey results that several of the statistical questions were interpreted differently by several of the respondents.
- It may be that further surveying is necessary if a trend develops of statistical anomalies. A review of all the surveys may show that the statistics are fine, or that the full review might indicate a need for further questioning.

Models (continued from January 11, 2000)

Combination – county only (presented by Hon. Mike Nevin)

Advantage of this system is forced input from several branches of the county/local government.

The same combination (or maybe some other combined group) should also evaluate and be responsible for removal.

Presiding Judges, Court Executives, County CAO, BOS member would be responsible for appointment and Presiding Judges and CAO could have on-going responsibility of oversight.

As long as county has financial responsibility, the BOS should be involved.

If funding source changes, then county involvement might change also. However, there should be some relationship between CPO and county because of use of county mental health, social services, etc.

The task force then reviewed the eight models from the new attendees.

The task force discusses viable models that the Relationship Subcommittee should investigate further.

Supervisor McIver suggests we have 2 approaches:

1. Select 3 models for further study or
2. Address only 2 models – state or county

After considerable discussion of various ways to approach the models and aspects to consider, the task force agrees that the two models to be studied by Relationship Subcommittee are:

1. County model with appointment by group
2. Court with trial court funding model

Some highlights of the two models are agreed upon and outlined below:

Court Model

- Court Funding (modeled after or incorporated into trial court funding)
- Appointing, supervision, retention by the court
- Liability to the court
- MOE (county) to the state
- No reduction in levels of service
- What remains with the county

County Model

- Appointment by group – shared appointing authority
- Retain current funding structure
- Funding should include adequate funding for services
- No reduction in level of service

Mr. Steve Love and the Relationship subcommittee will develop these two models and pull out the best aspects of the other models.

Justice Manoukian then led the task force in a discussion of issues on which we have reached preliminary agreement and the basic outline for our report.

Preliminary Recommendation:

1. Study of county and court models
2. Consider impact of Proposition 21 and 36 and other legislative mandates
3. Address technology concerns
4. Explore methods to increase cooperation/communication/collaboration
5. Promote collaboration with community resources
6. Enhance status of probation
7. Seek adequate funding for appropriate level of service
8. Enhance ongoing information collection to provide data as necessary
9. Establish standards for evaluation of CPO (can be program based or personal)

Report Outline

- I. Task Force
 - Process/Background
 - Composition/Selection
 - Qualifications
- II. History of Probation
- III. Information Gathering
 - Survey
 - Outreach
 - Roundtables
- IV. Probation Today
 - Appointment Process
 - Services
 - Probation Officers
 - Relationship with Court and County

Vision goals

1. Goals
2. Partnership
3. Demographics
4. Legislation

5. Propositions

VI. Models

- County
- Court

VI Feedback Review Process

VII Short- and Long –term Recommendations

Audience:

- Courts Board of Supervisors
- Legislature
- Probation
- Governor

Will circulate for comment before publication.